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**IN THE REAL ESTATE APPELLATE TRIBUNAL PUNJAB
AT CHANDIGARH**

Memo No. REST/2021/408

Appeal No. 40 of 2021

Between

Bharat Bhushan, S/o Sh. Harish Kumar, R/o House No. 63,
22 Acre Area, Barnala Punjab

...Appellant

And

1. Real Estate Regulatory Authority Punjab, 1st Floor, Block B,
Plot No. 3, Madhya Marg, Sector-18, Chandigarh-160008
through its Assistant Manager
2. Punjab Urban Development Authority, Sector 62,
Sahibzada Ajit Singh Nagar (Mohali) Punjab
3. Estate Officer, Urban Estate, Patiala, Pincode- 147002

...Respondents

**APPEAL UNDER SECTION 44 OF THE REAL ESTATE
REGULATION ACT READ WITH RULE 26(2) OF THE
PUNJAB REAL ESTATE (REGULATION AND
DEVELOPMENT) RULES, 2017 FOR SETTING ASIDE
THE ORDER DATED 18.06.2021 (IMPUGNED ORDER)**



**IN THE REAL ESTATE APPELLATE TRIBUNAL PUNJAB
AT CHANDIGARH**

Appeal No. 42 of 2021

Between:

Santosh Rani, W/o Sh. Bharat Bhushan, R/o House No. 63,
22 Acre Area, Barnala Punjab

...Appellant

Versus

1. Real Estate Regulatory Authority Punjab, 1st Floor, Block B,
Plot No. 3, Madhya Marg, Sector-18, Chandigarh-160008
through its Assistant Manager
2. Punjab Urban Development Authority, Sector 62,
Sahibzada Ajit Singh Nagar (Mohali) Punjab
3. Estate Officer, Urban Estate, Patiala, Pincode- 147002



...Respondents

**IN THE REAL ESTATE APPELLATE TRIBUNAL PUNJAB
AT CHANDIGARH**

Appeal No. 42 of 2021

Between

Ashok Kumar S/o Sh. Randhir Singh, R/o Flat No. 91, Pocket
2, Sector 19, Green View Apartments, Dwarka, South West
District, New Delhi-110075

...Appellant

And

1. Real Estate Regulatory Authority Punjab, 1st Floor, Block B,
Plot No. 3, Madhya Marg, Sector-18, Chandigarh-160008
through its Assistant Manager

2. Punjab Urban Development Authority, Sector 62,
Sahibzada Ajit Singh Nagar (Mohali) Punjab

3. Estate Officer, Urban Estate, Patiala, Pincode- 147002

...Respondents

**APPEAL UNDER SECTION 44 OF THE REAL ESTATE
REGULATION ACT READ WITH RULE 26(2) OF THE
PUNJAB REAL ESTATE (REGULATION AND
CONTROL) ACT, 2017 FOR SETTING ASIDE**



IN THE REAL ESTATE APPELLATE TRIBUNAL PUNJAB

AT CHANDIGARH

Appeal No. 43 of 2021

Between

Achal Kumar, s/o Sh. Prakash Chand, R/o SCO 10 C, Old

Tehsil Complex, Barnala, Punjab *rather name of Appellant
wrongly mentioned in Impugned order.*

Right name rather Page No 36

And

1. Real Estate Regulatory Authority Punjab, 1st Floor, Block B,
Plot No. 3, Madhya Marg, Sector-18, Chandigarh-160008
through its Assistant Manager
2. Punjab Urban Development Authority, Sector 62,
Sahibzada Ajit Singh Nagar (Mohali) Punjab
3. Estate Officer, Urban Estate, Patiala, Pincode- 147002

...Respondents

**APPEAL UNDER SECTION 44 OF THE REAL ESTATE
REGULATION ACT READ WITH RULE 26(2) OF THE
PUNJAB REAL ESTATE (REGULATION AND
DEVELOPMENT) RULES, 2017 FOR SETTING ASIDE
THE ORDER DATED 18.06.2021 (IMPUGNED ORDER)
BY WHICH THE AUTHORITY HAS DISMISSED THE**



**IN THE REAL ESTATE APPELLATE TRIBUNAL PUNJAB
AT CHANDIGARH**

Appeal No. 44 of 2021

Between

Vinod Kumar S/o Sh. Charanjeet Lal, R/o House No. BX1119,
ST No. 3, KC Road, Barnala Punjab

...Appellant

And

1. Real Estate Regulatory Authority Punjab, 1st Floor, Block B,
Plot No. 3, Madhya Marg, Sector-18, Chandigarh-160008
through its Assistant Manager
2. Punjab Urban Development Authority, Sector 62,
Sahibzada Ajit Singh Nagar (Mohali) Punjab
3. Estate Officer, Urban Estate, Patiala, Pincode- 147002

...Respondents

**APPEAL UNDER SECTION 44 OF THE REAL ESTATE
REGULATION ACT READ WITH RULE 26(2) OF THE
PUNJAB REAL ESTATE (REGULATION AND
DEVELOPMENT) RULES, 2017 FOR SETTING ASIDE
THE ORDER DATED 18.06.2021 (IMPUGNED ORDER)
VIDE WHICH THE AUTHORITY HAS DISMISSED THE**



IN THE REAL ESTATE APPELLATE TRIBUNAL PUNJAB
AT CHANDIGARH

Appeal No. 45 of 2021

Between

Hari Chand S/o Sh. Panna Lal, R/o House No. 290, Aastha
Enclave, Barnala Punjab **...Appellant**

And

1. Real Estate Regulatory Authority Punjab, 1st Floor, Block B,
Plot No. 3, Madhya Marg, Sector-18, Chandigarh-160008
through its Assistant Manager
2. Punjab Urban Development Authority, Sector 62, Sahibzada
Ajit Singh Nagar (Mohali) Punjab
3. Estate Officer, Urban Estate, Patiala, Pincode- 147002

...Respondents

**APPEAL UNDER SECTION 44 OF THE REAL ESTATE
REGULATION ACT READ WITH RULE 26(2) OF THE
PUNJAB REAL ESTATE (REGULATION AND**



REAL ESTATE APPELLATE TRIBUNAL, PUNJAB AT CHANDIGARH

APPEAL NO. 40 OF 2021 BHARAT BHUSHAN VERSUS REAL ESTATE REGULATORY AUTHORITY PUNJAB AND OTHERS	APPEAL NO. 41 OF 2021 SANTOSH RANI VERSUS REAL ESTATE REGULATORY AUTHORITY PUNJAB AND OTHERS
APPEAL NO. 42 OF 2021 ASHOK KUMAR VERSUS REAL ESTATE REGULATORY AUTHORITY PUNJAB AND OTHERS	APPEAL NO. 43 OF 2021 ACHAL KUMAR VERSUS REAL ESTATE REGULATORY AUTHORITY PUNJAB AND OTHERS
APPEAL NO. 44 OF 2021 VINOD KUMAR VERSUS REAL ESTATE REGULATORY AUTHORITY PUNJAB AND OTHERS	APPEAL NO. 45 OF 2021 HARI CHAND VERSUS REAL ESTATE REGULATORY AUTHORITY PUNJAB AND OTHERS

Present: - Mr. Ashok Gupta, Advocate for the appellant.
Mr. Bhupinder Singh with Mr. Ishtneet Bhatia
Advocates for the appellant.

This is an appeal directed against the order dated 18.06.2021, passed by the Adjudicating Officer, Real Estate Regulatory Authority, Punjab.

Learned counsel for the appellant at the outset places reliance on the recent judgment of the Hon'ble Supreme Court in "M/s. NEWTECH PROMOTERS AND DEVELOPERS PVT. LTD. VERSUS STATE OF UP & ORS.ETC." ^{and} refers to Para 83 and 86, to contend that the Adjudicating Officer would have no jurisdiction to entertain and decide issues relating to refund and interest, even though he is specifically empowered under the Act to deal with the issues of compensation, which has also been approvingly observed by the Hon'ble Supreme Court in "M/s. NEWTECH PROMOTERS AND DEVELOPERS PVT."



LTD. VERSUS STATE OF UP & ORS.ETC. He thus prays that in view of the authoritative pronouncement of the Hon'ble Supreme Court, the impugned orders ~~are~~ need to be set aside.

After hearing learned counsel for the parties, we notice that the prayer made in the complaint was as follows:-

" That the applicant has been charged interest by respondents PUDA. The development of the site has not been done till date by PUDA/respondents. As per the circular of PUDA/respondent no interest can be charged from the allottee if the complete development of the site has not been done. Thus the applicant is legally entitled to the refund of Rs.4083534.20/-, the amount of interest charged from them along with 18% interest. The applicant is liable to be compensated by the respondents PUDA for not developing the site due to which the applicant has suffered loss in his respective business for which he purchased the SCO in auction by paying the heavy price to respondent PUDA. It is therefore, respectfully prayed that this application may kindly be accepted and allowed and the applicant be refunded along with interest, the amount of Rs.4083534.20/- interest illegally charged by PUDA/respondent from the applicant, inspite of the fact that the site has not been developed till date and to further restrain PUDA not to charge any further interest from the applicant till the completion of the development of the site."

The Hon'ble Supreme Court of India has held in

"M/s. NEWTECH PROMOTERS AND DEVELOPERS PVT.

LTD. VERSUS STATE OF UP & ORS.ETC.", Para No. 83 & 86

as below:-



- "83. So far as the single complaint is filed seeking a combination of reliefs, it is suffice to say, that after the rules have been framed, the aggrieved person has to file complaint in a separate format. If there is a violation of the provisions of Sections 12, 14, 18 and 19, the person aggrieved has to file a complaint as per form (M) or for compensation under form (N) as referred to under Rules 33(1) and 34(1) of the Rules. The procedure for inquiry is different in both the set of adjudication and as observed, there is no room for any inconsistency and the power of adjudication being delineated, still if composite application is filed, can be segregated at the appropriate stage.
- "86. From the scheme of the Act of which a detailed reference has been made and taking note of power of adjudication delineated with the regulatory authority and adjudicating officer, what finally culls out is that although the Act indicates the distinct expressions like 'refund', 'interest', 'penalty' and 'compensation', a conjoint reading of Sections 18 and 19 clearly manifests that when it comes to refund of the amount, and interest on the refund amount, or directing payment of interest for delayed delivery of possession, or penalty and interest thereon, it is the regulatory authority which has the power to examine and determine the outcome of a complaint. At the same time, when it comes to a question of seeking the relief of adjudging compensation and interest thereon under Sections 12, 14, 18 and 19, the adjudicating



officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the Act. If the adjudication under Sections 12, 14, 18 and 19 other than compensation as envisaged, if extended to the adjudicating officer as prayed that, in our view, may intend to expand the ambit and scope of the powers and functions of the adjudicating officer under Section 71 and that would be against the mandate of the Act 2016."

Keeping in view the above and the observations made by Hon'ble Supreme Court in M/s. NEWTECH PROMOTERS AND DEVELOPERS PVT. LTD. VERSUS STATE OF UP & ORS.ETC., the Adjudicating Officer would have no jurisdiction to deal with the matters of refund and we therefore deem it appropriate to dispose of the appeals with a liberty to the complainants to move an appropriate application in Form M seeking refund & interest and Form N seeking compensation before the competent Authority/Adjudicating Officer.

In case, such applications are moved, the same shall be decided expeditiously by the Competent Authority/Adjudicating Officer as the case may be in accordance with law.



We are of the opinion, that in order to ensure expeditious disposal of the matter, the parties should put in appearance before the Authority/ Adjudicating Officer as the case may be. Which in turn shall pass appropriate orders either for allocating the proceedings to the appropriate Authority/ Adjudicating Officer or for return of the complaint with a permission to the complainant to file appropriate proceedings in Form-M or Form-N as the case may be. The Authority in this manner would have the benefit of providing a time-frame for the entire process as both the parties would be before it and the necessity of affecting service etc. may not arise. The Authority/Adjudicating Officer shall then proceed to determine the matter in accordance with law.

Parties are directed to appear before the Real Estate Regulatory Authority on 22.12.2021.

Photocopy of this order be placed in connected cases.



Sd/-
JUSTICE MAHESH GROVER (RETD.)
CHAIRMAN

Sd/-
S.K. GARG, D & S. JUDGE (RETD.)
MEMBER (JUDICIAL)

Sd/-
ER. ASHOK KUMAR GARG, C.E. (RETD.)
MEMBER (ADMINISTRATIVE/ TECHNICAL)

December 06, 2021
AN

Certified To Be True Copy
[Signature]
Registrar
Real Estate Appellate Tribunal Punjab
Chandigarh